United States District Court, Northern District of Illinois

No notices required. Notices mailed by judge's staff. Notified counsel by telephone. Docketing to mail notices. Mail AO 450 form. Copy to judge/magistrate judge. Courtroom deputy's initials Courtroom deputy's initials	Name of Assigned Judge or Magistrate Judge			Reinhard	Sitting Judge if Other than Assigned Judge			
### ITTLE In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state brie nature of the motion being presented.) DOCKET ENTRY:	CASE NUMBER 01		01 C	50441	DATE	12/9/	2002	
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MEMORANDUM OPINION AND ORDER

Plaintiff, Felipe R. Campa, filed suit against defendant, Gordon Food Service, Inc. ("Gordon") for injuries sustained by Campa in a motor vehicle accident. Campa is a citizen of Illinois and Gordon is a citizen of Michigan, being incorporated under the laws of Michigan with its principal place of business there. The amount in controversy exceeds \$75,000 so this court has diversity jurisdiction. 28 U.S.C. § 1332. Gordon filed a third-party complaint against Lasercare Services, Inc. ("Lasercare") and Christopher Sparacino. Sparacino moves for summary judgment on count I of the third-party complaint, the only count directed at him. Gordon has advised the court it does not oppose the motion. Sparacino assumes Illinois law applies and Gordon has not claimed otherwise so the court will apply Illinois law.

Campa and Sparacino were both employees of Lasercare traveling in the course of their employment in a vehicle owned by Lasercare and driven by Sparacino at the time of the accident. Campa has been awarded workers' compensation benefits as a result of his injuries. Illinois law provides that workers' compensation benefits are the exclusive remedy of an injured employee against a negligent co-employee acting in the course of his employment and bars a direct action against the co-employee. 820 ILCS 305/5(a).A third-party contribution action against the co-employee is likewise barred where the Worker's Compensation Act bars direct suit by the injured employee. Ramsey v. Morrison, 676 N.E.2d 1304, 1310 (Ill. 1997). Since Sparacino was acting in the course of his employment when Campa was injured, a direct action against him is barred by 820 ILCS 305/5(a) and, therefore, the third-party action against Sparacino for contribution is barred as well. Ramsey, 676 N.E.2d at 1310.

Sparacino's motion for summary judgment is granted and count I of the third-party complaint is hereby dismissed with prejudice.